BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER RULING DECISION NO. 85 AS A PRECEDENT DECISION PURSUANT TO SECTION 409 OF THE UNEMPLOYMENT INSURANCE CODE.

In the Matter of the Reserve Account of:

LEVIS IRON AND METAL CO.
(Employer-Appellant)
c/o Employers Experience Rating Bureau, Inc.

PRECEDENT RULING DECISION No. P-R-283

FORMERLY RULING DECISION No. 85

Account No.

CLAUDIUS R. BREWER
(Claimant)
S.S.A. No.

The above-named employer appealed to a Referee from a ruling of the Department of Employment which held that the claimant left the employer's employ with good cause within the meaning of Sections 1030 and 1032 of the Unemployment Insurance Code. On May 14, 1954, the California Unemployment Insurance Appeals Board set aside the decision of the Referee (S-R-663) and removed the matter to itself under Section 1336 of the code. A brief was submitted on behalf of the employer.

Based on the record before us, our statement of fact, reason for decision, and decision are as follows:

STATEMENT OF FACT

On January 3, 1954, the claimant registered for work in the Fresno office of the Department of Employment and filed a claim for benefits. In accordance with Section 1329 of the code the Department, on January 14, 1954,

mailed a notice of computation to the appellant which was a base period, but not the last, employer of the claimant. On January 18, 1954, the appellant informed the Department that the claimant had voluntarily left its employ and requested a ruling under Section 1030 of the code. The Department responded with a ruling, unfavorable to the appellant. The employer appealed to a Referee who, in the decision which we have set aside, reversed the ruling of the Department and held that the claimant left the appellant's employ without good cause within the meaning of Section 1030 of the code.

The claimant was employed as a laborer by the appellant from February 14, 1948, through April 4, 1953, a Saturday, at the closing rate of $1.55 an hour. During this period claimant completed a four year course at the Fresno Junior College wherein he received training as an automobile mechanic. This course, which the claimant attended under the "G.I. Bill", qualified him to enter into an apprenticeship.

On April 4, 1953, claimant accepted employment as apprentice mechanic with a Fresno bakery and entered into such employment on April 6, 1953. His rate of pay was $1.51 an hour. He was to receive increases to $1.61 an hour in three months and to $1.80 an hour in February, 1954. He was expected to receive his journeyman's card in June, 1954. The position was permanent in nature but, because of lack of work, claimant was laid off on October 31, 1953. He expected to return to such employment when business conditions improved.

REASON FOR DECISION

Section 1030 of the Unemployment Insurance Code provides:

> "Any employer who is entitled under Article 4 of Chapter 5 of this part to receive notice of the filing of a new or additional claim or notice of computation may, within 10 days after mailing of such notice, submit to the department any facts within its possession disclosing whether the claimant left such employer's employ

voluntarily and without good cause or was discharged from such employment for misconduct connected with his work. The department shall consider such facts together with any information in its possession and promptly issue to the employer its ruling as to the cause of the termination of the claimant's employment. Appeals may be taken from said rulings in the same manner as appeals from determinations on benefit claims."

Section 1032 of the code provides:

"If it is ruled under Sections 1030 or 1328 that the claimant left the employer's employ voluntarily and without good cause or was discharged by reason of misconduct connected with his work, benefits paid to the claimant which are based upon wages paid by such employer prior to the date of the termination of employment, shall not be charged to the account of such employer unless he failed to furnish the information specified in Section 1030 within the time limit prescribed in that section."

In Ruling Decision No. 5 we stated in part:

"In determining the issue of good cause in cases involving a leaving of work to accept other employment no definite standards or criteria can be established which may be uniformly applied in each and every case. Consideration must be given, among other things, to the relative remuneration, permanence and working conditions of the respective employments as well as the inducements or assurances, if any, made to the claimant by the prospective employer. All of the facts and circumstances of each particular case must be examined and weighed in determining whether good cause exists for leaving employment."

We have considered a number of cases concerning the leaving of work for the purpose of seeking other employment or entering into other employment. However, in

none of these cases have we been presented with a factual situation involving a leaving of work for the purpose of entering into an apprenticeship where the work was permanent in nature. We have held a claimant eligible for benefits although he restricted himself to work as an apprentice plumber and refused a referral to another type of work (Benefit Decision No. 5729). In that decision we stated:

> "The purpose of the apprenticeship program, which is fostered and encouraged by the State of California, is to provide on the job training and education which will eventually qualify him for work as a journeyman plumber. This on the job training is accomplished by agreements whereby employers participating in the program are charged with responsibility to use their best efforts to provide reasonably continuous employment for the apprentice. Furthermore, it is the function of the Los Angeles Joint Plumbing Apprenticeship Committee to use its best endeavors to procure employment for such apprentices."

In Benefit Decision No. 5052 wherein the claimant rejected an offer of work in order to continue his education under his Servicemen's Readjustment rights, we held that he had done so with good cause. In that decision we made the following remarks:

> "Briefly restated, these circumstances were that the claimant was in the last year of a college career in which he had invested both time and money, and to which the Federal Government had also made a substantial contribution. . . . In our opinion, to hold that a claimant faced with such a choice must accept the offered work to the detriment of his education, or suffer the penalty imposed . . . . would be an unduly narrow and restrictive interpretation. . . . We are of the opinion that the claimant in this case made the choice which any ordinarily prudent individual would have made under similar circumstances. . . ."

We reached the opposite conclusion in Benefit Decision No. 5243 in which the claimant, who had previously completed one year at a junior college some ten years earlier, left his work, in 1948, to resume his college education under the Servicemen's Readjustment Act of 1944.

We are mindful of our decision in Ruling Decision No. R-21 wherein we held that the claimant quit without good cause when he resigned his position as a cake department helper at a wage of $1.66 an hour to accept work for another employer as a machinist-apprentice at a starting wage of $1.25 an hour; and such decision is distinguished from this case because here the claimant's education under his Servicemen's Readjustment rights provided the foundation for his entrance into the apprenticeship program which is fostered and encouraged by the State of California.

In Benefit Decision No. 5590, wherein the claimant left permanent work as a factory helper to accept promised work as a carpenter's helper and apprentice in connection with the erection of four houses, we held that he had left his work without good cause. Although the claimant's starting rate of pay as apprentice carpenter was five cents an hour less than he received in his former work, it was understood that he would be able to join the union within a short time, when his rate of pay would be increased substantially. Our conclusion was influenced primarily by the temporary nature of the promised work.

In the instant case the claimant had been preparing himself for an apprenticeship in his chosen trade for four years. The Federal Government had made a substantial contribution to assist him. His last employer and his union had participated by arranging his apprenticeship. The employment into which the claimant entered as an apprentice was permanent in nature. Under the circumstances in this case, it is our conclusion that a compelling reason existed for the claimant's leaving of his work with the appellant, notwithstanding the temporary lessening of his rate of pay.

DECISION

The determination of the Department is affirmed. Any benefits paid to the claimant which are based on wages earned from the appellant employer prior to April 5, 1953, are chargeable under Section 1032 of the code to employer account number

Sacramento, California, October 8, 1954.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

EDWARD CAIN

Pursuant to section 409 of the Unemployment Insurance Code, the above Ruling Decision No. 85 is hereby designated as Precedent Decision No. P-R-283.

Sacramento, California, April 6, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT